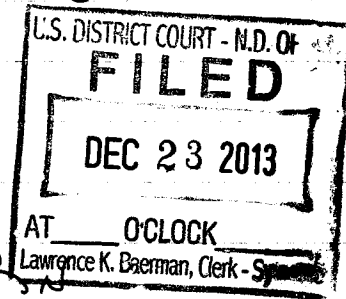


United States District Court  
Northern District of New York

Demetrius Tolbert  
Plaintiff

vs.

Carl J. Koenigs mann MD  
Glen Schroyer, MD  
Dr. R. Adams  
fnp Stevell fries  
PHY - PENNA William  
Nurse R. Holmes  
fnp William Parmer



Defendants

Inmate  
Civil Rights  
Complaint pursuant  
pursuant to  
42 U.S.C 1983

CASE NO. 9: \_\_\_\_\_ CV \_\_\_\_\_

Plaintiff DEMANDS a trial by: Jury

Plaintiff IN the above - captioned  
action, Allege(s) as follows:

## Jurisdiction

This is a Civil Action Seeking relief AND/OR Damages to defend AND protect the rights guaranteed By the Constitution of the United States. This Action is brought pursuant to 42 U.S.C 1983. The Court HAS Jurisdiction over this Action pursuant to 28 U.S.C (331, 1343 (3) AND (4) AND 2201

## Parties:

Plaintiff: Demeris Tolbert  
Address: upstate Correctional facility  
PO Box 2001  
Malone, NY 12953

Defendant: Carl J. Koenigsmann MD.  
Official Position: Chief medical officer  
Address: the Hanniman State Campus  
Building 2  
1220 Washington Avenue  
Albany, NY 12226 - 2050

Defendant: Glenn Schroyer M.D.  
Official Position: medical Director upstate  
Address: upstate Correctional facility  
PO Box 2001  
Malone, NY 12953

Defendant: Dr. R. Adams  
Official Position: Doctor  
Address: upstate Correctional facility  
PO Box 2001  
Malone, NY 12953

Defendant: fNP William Parmer  
Official Position: facility Nurse Practitioner  
Address: upstate Correctional facility  
PO Box 2001  
Malone, NY 12953

Defendant: R. Holmes RN  
Official Position: Nurse  
Address: upstate Correctional facility  
PO Box 2001  
Malone, NY 12953

Defendant: Stevell Fries, PA  
Official Position: Physician's Assistant  
Address: upstate Correctional facility  
PO Box 2001  
Malone, NY 12953

Defendant: Pena William PHy  
Official Position: Physical Therapy  
Address: upstate Correctional facility  
PO Box 2001  
Malone NY 12953

b. Defendant: \_\_\_\_\_  
Official Position: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Defendant: \_\_\_\_\_  
Official Position: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Defendants may be added on a separate sheet of paper.

4. PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

☒ Yes ☐ No

b. If your answer to 4a is YES, did you present the facts relating to your complaint in this grievance program?

☒ Yes ☐ No

If your answer to 4b is YES,

(i) What steps did you take? I filed A Grievance  
AND A medical Complaint with Albany

(ii) What was the final result of your grievance? UNANIMOUSLY  
ACCEPTED IN PART

If your answer to 4b is NO - why did you choose to not present the facts relating to your complaint in the prison's grievance program? \_\_\_\_\_

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If your answer to 4c is YES,

- (i) What steps did you take? \_\_\_\_\_

- (ii) What was the final result regarding your complaint? \_\_\_\_\_

If your answer to 4c is NO - why did you choose to not complain about the facts relating to your complaint in such prison? \_\_\_\_\_

5. PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

☒ Yes \_\_\_\_\_ No

- b. If your answer to 5a is YES you must describe any and all lawsuits, currently pending or closed, in the space provided below.

For EACH lawsuit, provide the following information:

- i. Parties to previous lawsuit:

Plaintiff(s): Dennis Tolbert

Defendant(s): Ted Nesmith, E. Dunder, Lester N Wright and

ii. Court (if federal court, name District; if state court, name County):

Northern District

iii. Docket number: 9:02-cv-01042-NAM-DEP

iv. Name of Judge to whom case was assigned: Judge David E. Peebles

v. Disposition (dismissed? on appeal? currently pending?): Dismissed

vi. Approximate date of filing prior lawsuit: 08/12/2002

vii. Approximate date of disposition: 03/14/2005

6.

#### FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

**Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary).**

ATTACHED

Sacts:

failure to carry out medical orders -  
Interfering with prescribed treatment  
for serious illness

- ① Defendant #1 fnd William Parmer.  
Plaintiff was seen and examined by  
Defendant Parmer on about 7/19/11 - 10-7/11  
1/10/12 - 2/11/12 for a unknown skin  
disease - Burning lesions and sores  
that are the size and shape of a nickel  
that appears on plaintiff's penis, head,  
legs, testicles, elbows, feet and  
hands.
- ② Plaintiff advised Defendant  
Parmer that Plaintiff was seen by  
two Dermatologist Specialist prior  
to Plaintiff arriving at upstate  
Correctional facility to treat skin  
disease.

SEE: EXHIBIT #A

- ③ Wendy Dermatologist Specialist  
prescribed Plaintiff (pills) to

To treat the unknown  
SKIN Disease AND SKIN Cream  
to relieve the Burning Lesions.

(4) Plaintiff was transferred to  
Southport Corr. fac. AND the  
SKIN Disease began to rapid  
spread All over plaintiff's Body.

(5) Plaintiff was then seen by  
A second Dermatologist  
Specialist AND A (Biopsy)  
was taken. AS A result, the  
Dermatologist Specialist advised  
Plaintiff that he couldn't  
determine what type of SKIN  
Disease Plaintiff had But  
that he was going to treat it  
the Disease AS if it was  
PSORIASIS.

(6) See: EXHIBIT # B  
AND EXHIBIT # C

So Dermatologist Specialist  
prescribed treatment plan  
AND medications prescribed AS  
well to treat SKIN Disease



⑦ When Plaintiff was seen By Defendant #1 William Farmer on All the above Days previously mentioned AND showed him the Burning Lesions on His Penis, Head AND other Areas of his Body.

⑧ Plaintiff then Advised Defendant #1 Mr. Farmer that Dermatologist Advised Plaintiff AND the medical Dept. that Plaintiff was to use A Specific - Separate Cream for Penis - A Separate Cream for Head - A Separate Cream for feet AND HANDS - medicated Soap AND lotion ON A trial-run Because the Specialist which medications worked AND also what type of Disease - Plaintiff HAD Contracted

⑨ Defendant #1 Farmer stated, update will not pay for All those medications - Soaps AND lotion so the Defendant Denied (Discontinued) All medications Soaps AND lotions prescribed By Dermatologist Specialist

1 Defendant #1 Parmer Denied  
10 All of Plaintiff's prescribed meds  
But the Defendant Did order  
Clobetasol Cream and about 6-to-7  
Neutrogenic soap.

11 Plaintiff then advised Defendant #1,  
Parmer that Clobetasol was  
prescribed to him at previous jail  
and it does relieve some sores.  
But doesn't have any effect on  
most parts of plaintiff's body which  
is noted in medical records.

12 Defendant #1 Parmer then  
stated, if plaintiff didn't take  
the creams he prescribed he  
wasn't getting anything else.

13 Plaintiff then requested to have  
pain meds: Neurontin - Baclofen -  
and Ultram Re-ordered because  
Plaintiff advised the Sick Call  
Nurse Jane Doe to Discontinue  
Highly narcotic pain meds  
During Ramadan because plaintiff  
can't take medications without  
being able to eat any food.

(14)

The Sickcall nurse Jane Doe advised plaintiff if pain worsen to inform medical - otherwise, he could refuse meds until RAMADAN fast is over with and then have the Defendant #1 parmer Re-order pain meds.

(15)

Plaintiff has a permanent disability. Plaintiff has metal rods placed in his hip, knee and femur area with tarsal tunnel (arteries torn) in left foot resulting from numerous gunshot wounds.

(16)

Defendant #1 parmer looked at plaintiff and said he is not going to order or Re-order plaintiff prescribed pain meds because plaintiff is addicted to drugs. The Defendant parmer ordered plaintiff an over-the-counter pain medication IBuprofen which doesn't relieve plaintiff's pain for metal hardware whatsoever.

(17)

Plaintiff told the Defendant that IBuprofen doesn't relieve his pain for (metal rods) which is

18

Also noted IN Plaintiff's medical Record. The Defendant #1 Parmer told the Correction officers to take the plaintiff Back to his cell.

19

SEE: EXHIBIT # D  
For Entrance EXAM form

Plaintiff advises medical staff of Permanent Injury (Disabilities) metal Rods AND of prescribed pain meds: Neurontin - Baclofen - Ultram.

20

Defendant #1, Parmer Denied Plaintiff: prescribed pain meds - Access to Dermatologist - skin creams - soap - lotion from 7/19/11 - to 2/11/12

21

SEE: EXHIBIT # E1-to E3  
for orthopedic Specialist Advises medical Dept. to prescribe NARCOTIC (Ultram) For plaintiff CHRONIC PAIN AND THAT plaintiff could Deny pain meds AN request PAIN meds if AND when needed

See: EXHIBIT # f1-444f-7

22 For Grievance filed for  
PLAINTIFF Being Denied prescribed  
Medical SOAP AND Access to  
See Dermatologist Specialist to  
1 determine what WAS ACTUALLY  
CAUSING PLAINTIFF'S abnormal,  
PAINFUL SKIN Disease.

23 After filing medical complaints,  
PLAINTIFF was left IN his cell  
for APPROX. 3 1/2 months (with NO  
medications for PAIN or SKIN  
care Believe for metal rods  
on SKIN Disease. PLAINTIFF  
COULDN'T EVEN take A  
SHOWER without feeling  
extreme pain from open flesh  
would.

24 The PLAINTIFF stopped  
UPSTATE Superintendent and the  
CAPTAIN on December 28, 2011  
while they were making their  
rounds through B1-GALLERY.

PLAINTIFF told them that he  
WAS INTENTIONALLY Being Denied  
medical Treatment Because of

[See EXHIBIT # 7]

(25) Medical Complaints filed with Albany. Plaintiff then showed the Superintendent and Captain the Open Sores and Burning Lesions on Head and Body.

(26) The Captain then ordered a female nurse Jane Doe to visit Plaintiff's cell for Emergency Sickcall.

(27) Plaintiff then showed Jane Doe the sores and she replied; she didn't know what the plaintiff had pissed off but she couldn't understand why there was (no medication orders) for plaintiff visible skin disease and for metal rods in place.

(28) Nurse Jane Doe said she was sorry because is only a nurse and she is unable to prescribe medications to give plaintiff any kind of relief but she did put plaintiff in to see the doctor ASAP.

(29) The following Days Some Top Albany officials (Jane Does) Came to upstate Solitary Confinement Facility to Investigate any claims of mistreatment By staff.

(30) The Jane Does Advised the Plaintiff as well as the rest of the SHU Inmates to write their And send it to upstates mail Room Because there was going to Be A Albany official there to (Intercept) All of the Inmates Complaints Against upstate

(31) Plaintiff wrote a letter And Advised The Albany officials that he was IN pain - Being Denied pain meds for permanent Disability Metal Rods And screws IN placed IN leg And plaintiff HAS Big Red sores on his penis, head feet AN Body that Burns AN causes (extreme irritation) AS well. And Begged them to Help Him

(32) Defendant # 2 Dr. Adams. Plaintiff WAS Seen By Defendant # 2



33

ON About 10/11/12 Defendant #2 Dr. Adams told the plaintiff the next time he has any medical issues he needs to address those concerns with upstate's medical Dept. and not with the Superintendent or with Albany officials.

34

Defendant #2 Dr. Adams then asked what was the plaintiff's medical problems in a unprofessional manner

35

Plaintiff first requested prescribed pain meds for metal rods and advised Dr. Adams that Ibuprofen doesn't relieve any pain for metal hardware for plaintiff - especially during cold weather.

36

Defendant #2 Dr. Adams then said he was going to discontinue Ibuprofen and said he was not going to order any other types of pain meds. Plaintiff was denied all pain meds for permanent disabilities



37

Defendant # 2 Dr. Adams then told plaintiff to show him his penis head and feet area. Dr. Adams then examined plaintiff finger nails and said plaintiff may have an infection because he saw little (Dents) on plaintiff finger nails in which he says was signs of an infection.

38

Defendant # 2, Dr. Adams then prescribed plaintiff (pills) and the same (skin cream) that plaintiff advised wasn't working. The pills was for - to treat infections.

39

Plaintiff then advised Dr. Adams that it's been (3 years) since he contracted skin disease and he needs to see a Dermatologist specialist.

40

Defendant # 2, Dr. Adams denied: Plaintiff access to outside specialist - Denied pain meds - Denied skin soap (lotion even after learning that treatment that was previously provided wasn't

Working. After 1 1/2 years of  
(41) Being Denied medical treatment  
- plaintiff filed numerous  
Grievances AND Complaints with Albany  
medical chief AND still, nothing  
was being done - plaintiff then  
filed a medical complaint with  
(Prisoners Legal Services)  
ON JAN. 2, 2012.

SEE: EXHIBIT # G-1 thru G-5

(42) SEE: (G-1) plaintiff advises  
Prisoners Legal Services that he has  
Big Red Sores ON his penis, head  
AND body area that is eating  
up plaintiff's flesh.

(43) SEE: EXHIBIT # G-3 plaintiff  
gives Prisoners Legal Services  
authorization to examine his  
medical records

SEE: EXHIBIT # G-5

(44) Defendant # 3, upstate Health  
Director Glenn Schroyer, M.D.  
IS made aware of plaintiff being  
Denied pain meds - skin disease

## Treatment AND Denied Access to outside Specialist

45

1 Defendant # 3 Glenn Schroyer MD. After Being made aware of Plaintiff's claims of Denied medical treatment, the Defendant # 3 Didn't conduct an investigation and he (intentionally mislead) the Prisoners Legal Services Attorney Mr. Adam DeFayette, By saying Plaintiff's medical needs are being met AND because of that false statement, Plaintiff's claim was closed.

46

Resulting IN Plaintiff going another (2 years) with sores on his penis, head and body. Also with extreme pain from metal rods.

47

1 Defendant # 4 Physical Therapist Pena William saw Plaintiff on about 6/25/12 Because Plaintiff was having problems with walking properly with metal rods and screws IN placed IN his knee, hip AND femur area.

(48) Note: PLAINTIFF WAS SEEN BY NURSE PRACTITIONER AMBER LASHWAY ON 6/12/12 - 7/17/12 7/26/12 AND SHE SAW THAT PLAINTIFF WAS HAVING PROBLEMS SITTING, WALKING AND STANDING WITHOUT GRIMACING SHE MADE A REFERRAL FOR PLAINTIFF TO BE SEEN BY PHYSICAL THERAPIST DEFENDANT #4, PHYSICAL THERAPIST PENA WILLIAM.

(49) DEFENDANT #4 ASKED PLAINTIFF WHEN WAS THE METAL HANDWAY PLACED IN HIS LEFT LEG AND HIP - FEMUR PLAINTIFF TOLD HIM IN 1993 RODS WAS EMBEDDED IN HIS LEG.

(50) PLAINTIFF THEN TOLD HIM THAT METAL SCREWS SOMETIMES MAKE A CLICKING SOUND AND SWELLS UP PLAINTIFF'S HIP AND KNEE AND PLAINTIFF CAN'T WALK OR BEND KNEES WITHOUT FEELING PAIN AND DISCOMFORT. PLAINTIFF ALSO INFORMED DEFENDANT PENA WILLIAM THAT HE EXPERIENCES MUSCLE SPASMS ALSO.

(51) DEFENDANT #4 PENA THEN STATED THAT PLAINTIFF WAS A YOUNG

MAN SO HE WOULD BE OKAY.  
THE DEFENDANT PENA WITHOUT PHYSICALLY  
EXAMINING PLAINTIFF SAID HE WILL  
RECOMMEND A KNEE BRACE AND HE  
WROTE SOMETHING ELSE IN  
PLAINTIFF'S MEDICAL RECORDS.

(52)

(1) DEFENDANT #4 PENA WILLIAM  
SAW PLAINTIFF ONLY (ONCE) AND  
(1) DENIED PLAINTIFF ANY FURTHER  
PHYSICAL THERAPY FOR PERMANENT  
SERIOUS INJURY (METAL RODS) AND  
TORN ANTERES (TARSAL TUNNEL)  
SYNDROME

See: EXHIBIT # H1 - thru - H3

(53)

FOR PHYSICAL THERAPY APPOINTMENT  
WITH (1) DEFENDANT #4 PENA  
WILLIAM AND HIS RECOMMENDATIONS

(54)

See: EXHIBIT # (H-2) AND (H-3)  
FOR PLAINTIFF GRIEVANCE FILED  
FOR BEING DENIED PHYSICAL  
THERAPY AFTER (ONLY ONE  
SESSION WITHOUT AN EXAMINATION

See: Exhibit # (I-1 thru I-2)

(55) Exhibit # I-1 for plaintiff past problems with walking to facility mess hall with metal shoes IN place.

(56) Exhibit # I-2 for plaintiff complaining about (clicking sounds) and discomfort with hardware.

(57) Defendant # 5 Nurse Holmes this Defendant has been harassing plaintiff ever since plaintiff arrived at upstate Corr. fac. and thereafter.

(58) Defendant # 5 Nurse Holmes would yell out (loudly) all of plaintiff's personal concerns to make sure that all the inmates on C- AND - B gallery could hear her.

(59) Plaintiff was prescribed pain meds for morning AND afternoon. The Defendant ms. Holmes stated that she is not coming all the way to B AND A gallery



Just to give one inmate  
 (60) pain meds IN the (afternoon)  
 So Defendant Holmes had  
 plaintiff meds changed to (morning  
 and nights as a result.

(61) Defendant Holmes gave plaintiff  
 pain meds (ultram) IN  
 (liquid form) and plaintiff  
 advised Defendant that liquid  
 meds causes Dizziness and  
 stomach pains. Defendant  
 Holmes replied, if plaintiff refuses  
 meds she was going to write  
 him a (misbehavior report) and  
 also have all of his pain meds  
 stopped for indefinitely.

(62) Defendant Holmes got upset  
 because plaintiff went over her head  
 and ask the NP Parmer to  
 change meds back to (pill form)  
 and he did so.

(63) The following days  
 Defendant Holmes came to  
 plaintiff's cell (C-2) yelling,  
 open up your mouth - I want  
 to see all of the pills go

(64) In your mouth. The plaintiff complied. Plaintiff then asked Defendant why is she always mean to plaintiff for no reason at all and she responded, Don't come to prison.

(65)

ON 8/03/11 Defendant Holmes came to plaintiff's cell (10-C1-02B) AND gave him (5 pills). The plaintiff took the pills AND showed the Defendant AND her (male escort officer John Doe) that all (5 pills) was on his tongue before swallowing. After plaintiff swallowed the Defendant yelled out that the plaintiff took only (4 pills) instead of (5 pills).

(66)

Plaintiff was then searched immediately AND the Defendant Holmes wrote plaintiff a misbehavior report even though NO pills was found.

(67)

The hearing officer conducted an investigation AND the escorting officers AND found out that plaintiff did



Nothing wrong.

68 See: EXHIBIT # (J-1 thru J-6)

EXHIBIT # J-1 for misbehavior  
Report - Plaintiff is found not  
guilty of unauthorized medications

69 See: EXHIBIT # J-2 for  
Statement made By Defendant  
Holmes IN her own HAND writing  
Plaintiff asked why is she so  
mean to him AND she threatened  
to write plaintiff up for HARASSMENT.

70 See: EXHIBIT # J-3 for  
Defendant Holmes continuously Deny  
Plaintiff medical Attention - stating  
IN her own words ) that plaintiff's  
( Cell-Light WAS out ) AND THAT IS  
why she Denied him Sick call  
while plaintiff had sores on penis  
AND WAS IN PAIN from metal  
Rods.

71 See: EXHIBITS # J-4, J-5  
AND J-6 for plaintiff files  
GRIEVANCE for HARASSMENT for  
continuously Being Denied Sick call

72 AND Son constantly threatening to write plaintiff a misbehavior Report when he requested medical Assistance.

73

Defendant # 6 Carl J. Koenigsmann  
M.D. Chief medical officer / Deputy  
Commissioner

74

Plaintiff's Family (Sond Tolbert)  
Brother called Albany numerous times  
to (request an investigation)  
AND also plaintiff wrote this  
Defendant numerous times (Directly)  
AND still plaintiff was left in  
his cell in (Solitary Confinement)  
for (4 months) at a time with  
no medical treatment whatsoever  
Defendant # 6 Dr. Koenigsmann  
always wrote plaintiff back,  
advising plaintiff to seek treatment  
from the same medical staff  
who was systematically  
denying plaintiff prescribed healthcare  
in the first place

75

Failure to act to remedy  
A wrong

Creating or allowing an  
UNCONSTITUTIONAL Policy or custom

(76) The Defendant #6 Chief medical officer CARL J. KOENIGSMANN ALSO VIOLATED PLAINTIFF CONSTITUTIONAL RIGHTS to Adequate medical By allowing (upstate medical Dept.) to create Policies that Blatantly Denied plaintiff AND all upstate SHU INMATES access to medical care AS followed:

(77) upstate SHU INMATES ARE  
Denied SICKCALL request if:

- (1) If they are not standing at their (Cell Door)
- (2) If one of their Cell lights are not on
- (3) If AN INMATE is still sleeping  
- Note, AN INMATE could be (Hurt or UNCONSCIOUS) AND the SICKCALL nurse will still  
Deny them SICKCALL
- (4) If AN INMATE DOESN'T KNOW HIS ID number

78 Defendant #6 Dr. Carl J. Koenigsmann  
 WAS MADE AWARE OF PLAINTIFF  
 BEING LEFT IN HIS CELL IN SOLITARY  
 CONFINEMENT WITH BURNING LESIONS  
 AND SORES ALL OVER HIS BODY WITHOUT  
 BEING TREATED FOR (3 plus months)  
 AT A TIME AND DEFENDANT #6  
 DID NOTHING TO STOP IT!

79

See: EXHIBIT # (K-1 - thru K-3)

K-1 For letter Dated Sept 21, 2012  
 Directly Informing Defendant  
 Dr. Koenigsmann About Burning  
 LESIONS AND SORES ON PLAINTIFF'S  
 (PENIS AND HEAD) AND BODY.

80

K-2 For ANOTHER medical complaint  
 letter Dated 3/27/13 Addressed  
 to Defendant #6 office AND HIS  
 Response

81

K-3 For A third medical complaint 5/13/13  
 letter Addressed to Dr. Koenigsmann  
 Concerning (SKIN Disease)  
 Denied medical treatment - PAIN meds  
 Access to Dermatologist Specialist  
 (INadequate medical care) IN general

Defendant #7 Stwell fries PA

82

Plaintiff was seen by fries ON 11/19/12 - 12/18/12 3/26/13 AND upon first meeting the Defendant # stated, he didn't care about how many grievances or medical complaints that the plaintiff wrote - he still wasn't going to prescribed narcotic pain meds prescribed by Orthopedic Specialist.

83

Plaintiff then showed him the skin sores and burning lesions and the Defendant didn't say anything further. He told the officers that we were Done.

84

ON all three occasions that plaintiff saw Defendant fries, the examinations only lasted for about 2-minutes or less. The Defendant did order plaintiff the (same skin cream) and pain meds that plaintiff advised (didn't work) and it's also noted in plaintiff's 20 plus years medical history.

Defendant Denied Plaintiff  
 (85) prescribed pain meds or any type of  
 pain meds that would bring plaintiff  
 Relief for (metal hardware) or severe  
 (skin disease).

mental, physical AND emotional  
 Injuries:

(86) Plaintiff couldn't participate in  
 the one-hour of (shu-recreational)  
 time allowed because of the  
 extreme pain with the (metal rods  
 and screws) in leg - especially  
 (1) during the winters. Plus plaintiff  
 couldn't walk or sit  
 without experiencing pain and  
 (1) discomfort and that's why  
 plaintiff was housed on a medical  
 Disability unit for (6 years)  
 straight while at Attica corr. fac.

(87)

mental AND emotional suffering.  
 Plaintiff was unable to receive  
 visits because he had big red  
 sores on his head and elbows  
 which were (visible) and painful.  
 Plaintiff couldn't sleep regularly  
 and plaintiff (lots of time) lost



(88) Tremendous weight from Distress. Plaintiff was told he had a severe infection that may even be life threatening.

(89) Plaintiff was so distraught that he begged the mental health dept. for help. A psychologist stopped by plaintiff cell (10-B-14) and plaintiff told John Doe that he was being intentionally denied medical assistance and then showed the (psychologist) the sores on his penis and head. The psychologist logged it in his notes and then told medical to treat the plaintiff.

(90) See Exhibit # K-2 (page 3) for (memo written by mental health chief Mr. Kemp 4/1/2013 concerning letters and request for help from the mental health dept. for plaintiff skin disease and metal rod / screws. Mr. Kemp sent a memo to the medical Department advising to treat Plaintiff skin disease.

See Exhibit # L1 - thru L2

(91) Exhibit # L1 for unconstitutional Policy that ~~Denies~~ Plaintiff Access to medical care on 9/22/12 Because the Sick Call Nurse says Plaintiff not at Door - Plaintiff Light is not on so Plaintiff is ~~Denied~~ Sick Call

(92) This complaint isn't towards Nurse Fairchild for Denying Plaintiff Sick Call Because she is only following a Policy that ~~Denies~~ Plaintiff Sick Call and she has never Denied Plaintiff Sick Call in the past

(93) Exhibit # L-2 Nurse Adm. Informs Plaintiff that there (is no) Doctors - PA - nor Nurse Practitioners Employed or working at upstate Corr. fac. LA - Building.

(94) Plaintiff and Inmates are Informed on a regular Basis that there are no Doctors Available for (3- to 5 months at a time).



(95)

AS A result, plaintiff was still denied medical prescribed meds for (2 years).

(96)

See: EXHIBIT # M for  
1) Dept. Wtler stops at plaintiff's cell and sees sores on body for himself and orders the medical Dept. to treat plaintiff ON 12/28/11

(97)

See: Bottom of same page of medical Records dated (1-5-12) plaintiff is still complaining about sores and metal rods.

See: EXHIBIT # N 1 - thru N 3

(98)

for plaintiff advising Dr. Canfield about 1 year prior to arrival to update that Cetaphil (Soap helps) and regular soap and Neutrogenic soap (cause more irritation)

(99)

See: EXHIBIT # O for medical complaint letter sent to Governor Choma By (main)

100

Note: Above every Cell Door the Inmates Name and ID Number is written In Big Bold letters

In addition: Short on medical staff

101

Plaintiff, as well as the entire 10-Building SHU population was told on numerous occasions that there is no (Doctor) nurse practitioner nor (PA) available for (3-to-5 months) at a time

The most recent:

102

There was (no Doctors) available at upstate 10-Building from about July 2013 - to - November 25, 2013.

103

Plaintiff skin sores began to spread again rapidly and the nursing staff told plaintiff she is sorry but there won't be no Doctors available for at least (3-to 5 months)

That occurs frequently at upstate SHU - See Facility Records

## CAUSES of ACTION

104

## First CAUSE of ACTION

The Defendant Violated Plaintiff Eighth Amendment right to Be free from Cruel and Unusual Punishment when the Defendants Intentionally and knowingly left plaintiff in a Solitary Confinement Cell for (24 Hours - A - Day) Everyday for Approx. 2 years (off-and-on) as well as with a SKIN Disease (Burning Lesions) that appear and keep reappearing on Plaintiff Penis, Head and Body. AND Denied Plaintiff prescribed pain medications for permanent Injury - (metal Rods and Screws) Embedded in Plaintiff's Hip, Knee and Femur.

105

## Second CAUSE of ACTION

The Defendant Failed to provide reasonable or Substandard medical care for plaintiff and by doing so the Defendant put plaintiff Life and Health at Risks Because they Denied plaintiff access to Dermatologist for (2 years) to treat and/or to find out (what was causing skin Infection). Also

(106) The Defendant Denied Plaintiff All pain meds - medical treatment plan - AND All recommendations made By Dermatologist Specialist AND Orthopedic Specialist

Third Cause of Action

(107) The Defendants Retaliated towards Plaintiff By continuously being hostile towards him after (filing numerous) medical complaints AND grievances. Plus Plaintiff was left in his cell for 3-to-4 months with no treatment after he spoke to Superintendent about skin disease

8. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

(108) Plaintiff prays for Judgment IN HIS favor  
AND Damages IN HIS favor AGAINST ALL  
Defendants to compensate him for pain and mental  
Anguish IN the amount of 500,000 (Injunction Relief)

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Dec. 19, 2013

[Signature] 0142883

Pro se  
Signature of Plaintiff(s)  
(all Plaintiffs must sign)

02/2010